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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,250	06/09/2006	Fabio Bellifemine	09952.0041	1305
22852	7590	04/13/2010	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413				PIERRE LOUIS, ANDRE
ART UNIT		PAPER NUMBER		
2123				
MAIL DATE		DELIVERY MODE		
04/13/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/582,250	BELLIFEMINE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	ANDRE PIERRE LOUIS	2123	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 March 2010.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 22-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 22-42 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

**DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/23/2010 has been entered.

2. Claims 1-21 remain cancelled and claims 22-42 are presented for examination.

**Response to Arguments**

3. Applicant's arguments filed 3/23/2010 have been fully considered but they are moot in view of the new ground of rejection. The Examiner realizes that the claims now show the calculation of a prediction associated with a user profile, as amended; however, none of the claims are patentably distinct from the prior art of file, as evidenced by the ground of rejection set forth below.

**Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly

owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4.0 Claims 22-42 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Risan et al. (USPG\_PUB No. 2005/0060542), in view of Herz ET al. (US Patent No. 7,630,986).

4.1 In considering claims 22 and 32, Risan et al. substantially teaches a method of providing user modeling in media delivery networks, wherein a set of applications is adapted to exchange usage data by means of at least one user modeling server, *comprising the steps of:* associating with said user modeling server a function for regulating exchange of usage data between any of a first application and a second application in said set, wherein said function defines: whether said usage data are provided by said first application to said second application, and a degree of trust acknowledged by said second application to the provided usage data (*fig.2, 7, para 53-55, 65-66, 98, 160-63, 309*); however, he does not expressly teach calculating, using the user modeling server, predictions associated with a user preference based on the function. Herz et al. substantially teaches estimated a model matching the predictions associated with a user preference based on the user profiling function (*see col.104 lines 55-67, col.182 line 61-col.183 line 14, col.200 lines 12-23*). Risan and Herz et al are analogous art because they are from the same field of endeavor and that the model analyzes by Herz et al. is similar to that of Risan. Therefore, it would have been obvious to one of ordinary skilled in the art to combine the system of Herz et al. with the method of Risan because Herz et al. teaches advantage of allowing a user to retain absolute control over his/her own files without any releasing to the shared database (*see col.5 lines 42-53*).

4.2 Regarding claims 23 and 33, the combined teachings of Risan et al. and Herz et al. substantially teach that wherein said usage data comprise: user data related to the registered

users and their profiles (*fig.7, para 65-66, 89-91*); and feedback data concerning the users' behavior (*see Risan fig.7, para 65-66, 89-91*).

4.3 With regards to claims 24 and 34, the combined teachings of Risan et al. and Herz et al. substantially teach the step of providing in said user modeling server: a first database containing the user data (*fig.4 (450), para 89-92*); a second database comprising feedback data (*fig. 9151), para 89-92*); and a third database containing rules for the exchange of usage data, said rules defining said function (*see Risan para 59-62, 89-92*).

4.4 As per claims 25 and 35, the combined teachings of Risan et al. and Herz et al. substantially teach the step of generating a prediction about preferences of a user in a specific domain by taking the user data associated with said user from the first database and the feedback data associated with said user from the second database and weighing said user data and said feedback data according to the rules contained in the third database (*see Herz col.104 lines 55-67, col.182 line 61-col.183, col.200 lines 12-23*).

4.5 With regards to claims 26 and 36, the combined teachings of Risan et al. and Herz et al. substantially teach that wherein said user modeling server further comprises a fourth database comprising data describing each application in said set (*see Risan fig.10, 13. para 262-65*).

4.6 Regarding claims 27 and 38, the combined teachings of Risan et al. and Herz et al. substantially teach that wherein said function is in the form of a bi-directional relationship and wherein any of said first and second applications is configured for accepting, refusing or negotiating said relationship (*see Risan fig.7, 12, 16, and 18, para 89-92, 326, 331-36*).

4.7 As per claim 28, the combined teachings of Risan et al. and Herz et al. substantially teach the steps of: valuating said usage data (*fig.4, para 92-96*); and defining debit and credit values each said application in said set has in respect to usage data exchanged with other applications in said set (*see Risan para 65-67, 89-92, and 316*).

4.8 With regards to claims 29 and 39, the combined teachings of Risan et al. and Herz et al. substantially teach that wherein said applications are associated with respective providers and wherein the method comprises the step of causing at least one of said providers to produce a list of other providers to which usage data are to be provided on the basis of said function (*see Risan fig.7, para 162-66*).

4.9 Regarding claims 30 and 40, the combined teachings of Risan et al. and Herz et al. substantially teach that wherein said applications are associated with respective providers and wherein the method comprises the step of causing at least one of said providers to produce a list of providers from which information is to be acquired (*see Risan fig.7, para 162-66*).

4.10 As per claim 31, the combined teachings of Risan et al. and Herz et al. substantially teach that wherein said usage data further comprise environment data related to the users' current location (*see Risan para 65-67, 187-88*).

4.11 Regarding claim 37, the combined teachings of Risan et al. and Herz et al. substantially teach that wherein the user modeling component comprises: a set of user modeling modules, each user modeling module being associated with an application of said set and comprising the user data and the feedback data, wherein each modeling module is adapted to generate a prediction about preferences of said user (*fig.2-4, para 59-62, 65-68, and 89-92*); and a merge component configured to merge the predictions about preferences from applications of

said set and to weigh said predictions according to the rules contained in the third database (*see Risan fig.2-4, para 59-62, 65-68, and 89-92*).

4.12 With regards to claim 41, the combined teachings of Risan et al. and Herz et al. substantially teach the media delivery network comprising a system according to claim 32 (*this claim inherits the same defect as claim 32*).

4.13 Regarding claim 42, the combined teachings of Risan et al. and Herz et al. substantially teach the computer readable medium encoded computer program product loadable into a memory of at least one computer the computer program product comprising software code portions performing the steps of the method of claim 22 (*this claim inherits the same defect as claim 22; see further Risan para 147, 294*).

### Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5.1 Edmond et al. (U.S. PGPUB No. 2006/0265402) teaches a grid network for distribution of files.

6. Claims 1-21 are cancelled; claims 22-42 are rejection and **THIS ACTION IS Non-Final**. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDRE PIERRE LOUIS whose telephone number is (571)272-8636. The examiner can normally be reached on Mon-Fri, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul L. Rodriguez can be reached on 571-272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P. L/  
Examiner, Art Unit 2123

April 7, 2010

/Paul L Rodriguez/  
Supervisory Patent Examiner, Art Unit 2123